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Clifford Chance Rogers & Wells LLP

Docket No. 5677/142

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

In re Divisional Application of: Leo J. Romanczyk, Jr. et al.

JUN 09 2003

Serial No. : 09/717,445 Group Art Unit : 1654

Filed : 11/21/00 Examiner : C. Tate

For : FOODS CONTAINING A COCOA POLYPHENOL ADDITIVE

TECH CENTER 1600/2900

Commissioner for Patents
Washington, D.C. 20231

AMENDMENT

Sirs:

This is submitted in response to the Office Action mailed March 11, 2003. A response is due June 11, 2003. Applicants are responding prior to the two month deadline of May 11, 2003 so that the Examiner can issue an Advisory Action by June 11, 2003.

Claims 44, 46-55, and 59 are presented for examination.

The Examiner is thanked for the withdrawal of the §102(b) rejection of Claims 44 and 47-56 over Kashket (U.S. 4,906,480). Applicants note that the Examiner is still relying on Kashket in the §103 rejection of Claims 44 and 46.

The Examiner is thanked for the indication that Claims 47-55 and 59 would be allowable if the §112 indefiniteness rejections and obviousness-type double patenting rejections are